

BEFORE THE NATIONAL LABOR RELATIONS BOARD
UNITED STATES OF AMERICA
REGION 19

PACIFIC NORTHERN CONSTRUCTION COMPANY, INC.¹

Employer

and

Case 19-RC-14210

WASHINGTON AND NORTHERN IDAHO DISTRICT COUNCIL
OF LABORERS AND INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCALS 302 AND 612, AFL-CIO

Joint Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding², the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The labor organizations involved jointly claim to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:³

All employees of the Employer employed in laborer and operating engineer classifications at the Employer's job sites in Pierce, Snohomish and King counties, Washington, excluding all other employees, supervisors and guards as defined in the Act.

¹ The name of the Employer appears as corrected at the hearing.

² The Employer challenged the showing of interest as inadequate. This is an administrative matter which has already been ruled upon in an Order Denying Motion to Dismiss dated June 26, 2002.

³ The Unit is in accord with the stipulation of the parties. There were no issues presented at the hearing.

DIRECTION OF ELECTION⁴

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees in the appropriate unit who have been employed for 30 days or more within the 12 months preceding the eligibility date for the election, or those who have had some employment in those 12 months and have been employed for 45 days or more within the 24-month period immediately preceding the eligibility date, and who have not been terminated for cause or quit voluntarily prior to the completion of the last job for which they were employed. The foregoing applies only to employees in the appropriate unit. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented jointly for collective bargaining purposes by Washington and Northern Idaho District Council of Laborers and International Union of Operating Engineers, Locals 302 and 612, AFL-CIO.

LIST OF VOTERS

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that an election eligibility list, containing the alphabetized full names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 19 within 7 days of the date of this Decision and Direction of Election. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. The Region shall, in turn, make the list available to all parties to the election.

In order to be timely filed, such list must be received in the Regional Office, 915 Second Avenue, 29th Floor, Seattle, Washington 98174, on or before July 9, 2002. No extension of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may

⁴ The record shows the Employer is engaged in the construction industry. Neither party raised any objections or proposed any alternatives to using the standard construction industry eligibility formula set forth in *Steiny and Company, Inc.*, 308 NLRB 1323 (1992) and *Daniel Construction Company*, 167 NLRB 1078, 1081 (1967). In the absence of any objections or an agreement not to use the construction industry eligibility formula, the *Daniel Construction* eligibility formula will be used herein. *Signet Testing Laboratories, Inc.*, 330 NLRB No. 104 (1999)

be submitted by facsimile transmission to (206) 220-6305. Since the list is to be made available to all parties to the election, please furnish a total of 4 copies, unless the list is submitted by facsimile, in which case only one copy need be submitted.

NOTICE POSTING OBLIGATIONS

According to Board Rules and Regulations, Section 103.20, Notices of Election must be posted in areas conspicuous to potential voters for a minimum of three working days prior to the date of election. Failure to follow the posting requirement may result in additional litigation should proper objections to the election be filed. Section 103.20(c) of the Board's Rules and Regulations requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by July 16, 2002.

DATED at Seattle, Washington, this 2nd day July 2002.

Paul Eggert, Regional Director
National Labor Relations Board, Region 19
2948 Jackson Federal Building
915 Second Avenue
Seattle, Washington 98174

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